

**LFC Requester:****Sunny Liu**

**AGENCY BILL ANALYSIS  
2016 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**      X   **Amendment**          

**Correction**           **Substitute**          

**Date** February 3, 2016

**Bill No:** HB314

**Sponsor:** Rep. Nate Gentry

**Agency Code:** 305

**Short**

**Person Writing** Caroline Manierre, A.A.G.

**Title:** Fantasy Contests Act

**Phone:** 505-827-6079 **Email** cmanierre@nmag.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE****BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

**Synopsis:**

House Bill 314 enacts the "Fantasy Contests Act." The Bill includes definitions for "confidential information," "entry fee," "fantasy contest," "fantasy contest operator," and "fantasy contest player." The Bill would create requirements for a "fantasy contest operator" in conjunction with fantasy contests with an entry fee. These would require a fantasy contest operator to implement procedures ensuring that employees of the fantasy contest and their relatives do not compete in fantasy contests offered by the operator, preventing the sharing of confidential information that could affect fantasy contest play, preventing the fantasy contest operator from participating in a fantasy contest he or she offers, verifying that fantasy contest players are 18 or older, ensuring that individuals who participate or officiate in a game or contest where they are a player and that contest is determined in whole or in part on the accumulated results of a team of individuals, allowing individuals to restrict themselves from entering such a fantasy contest upon request, disclosing the number of entries a fantasy contest player may submit to each fantasy contest, and segregate fantasy contest player funds from operational funds, as well as keeping a reserve in the amount of deposits made to the accounts of fantasy contest players. The Bill would also require a fantasy contest operator to annually contract with a third party to perform an independent audit and submit the results of the audit to the secretary of state.

House Bill 314 imposes a civil penalty of not more than \$1,000 for each violation of the Act. The penalty accrues to the state and may be recovered in a civil action brought by the secretary of state. Finally, the Bill exempts fantasy contests as defined in the Act from the criminal penalties for gambling imposed under Chapter 30, Article 19 NMSA 1978.

**FISCAL IMPLICATIONS:** None

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

Section 5 of House Bill 314 specifically exempts fantasy contests from the application of Chapter 30, Article 19 of the New Mexico statutes. This chapter is the section of the criminal code relating to gambling. The exemption in Section 5 may also effectively make the conduct of and participation in fantasy contests permissible under the Gaming Control Act, which permits "gaming activity" in the state if it is conducted in compliance with the Gaming Control Act or "a

state or federal law other than the Gaming Control Act that expressly permits the activity or exempts it from the application of the state criminal law, or both.” NMSA 1978, § 60-2E-4.

Implementation of House Bill 314 would also need to comport with federal gaming laws to include the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. §§ 5361-5367, regarding “participation in a fantasy or simulation sports game”, which is an exception under that Act to the definition of a “bet or wager”, and the Professional and Amateur Sports Protection Act, 28 U.S.C. §§ 3701-3704, which declares it unlawful for “a person to sponsor, operate, advertise, or promote...a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly...on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.” 28 U.S.C. § 3702.

**PERFORMANCE IMPLICATIONS:** N/A

**ADMINISTRATIVE IMPLICATIONS:** N/A

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP:** None

**TECHNICAL ISSUES:** None

**OTHER SUBSTANTIVE ISSUES:**

Other than the providing for the imposition of a civil penalty and requiring audit results to be provided to the secretary of state, House Bill 314 does not expressly provide for any state regulation or oversight of fantasy contests.

**ALTERNATIVES:** N/A

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL:** Status quo

**AMENDMENTS:** N/A